

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CAPITAL AREA IMMIGRANTS' RIGHTS
COALITION, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, *et al.*,

Defendants.

Civil Action No. 1:19-cv-02117-TJK

I.A., *et al.*,

Plaintiffs,

v.

WILLIAM BARR, in his official capacity as
Attorney General of the United States, *et al.*,

Defendants.

Civil Action No. 1:19-cv-02530

NOTICE OF CORRECTION AND MOOTNESS

Defendants hereby notify the Court that Plaintiff Y.D. in *I.A. v. Barr*, 19-cv-2530, is no longer subject to a final order of expedited removal, because she has been issued a notice to appear for proceedings under 8 U.S.C. § 1229a. *See* Ex. A, Notice to Appear. Accordingly, Plaintiff Y.D. is no longer subject to an executable order of removal, and her request for a stay of removal pending before this Court is now moot. *See* ECF No. 27.

Because government counsel was not informed of the issuance of the Notice to Appear until after the filing of its Consolidated Statement of Undisputed Material Facts in *CAIR v. Trump*,

19-0cv-2117 or *I.A. v. Barr*, 19-cv-2530, paragraph 21 in that document is not complete. Accordingly, Defendants will submit a corrected statement of facts reflecting this development simultaneous with this filing. That document will correct paragraph 21 to read as follows:

Y.D.: On August 26, the Elizabeth Immigration Court received the Notice of Referral for Credible Fear Review for Y.D. Burgus Decl. ¶ 67. On September 4, Y.D. appeared with counsel for the credible fear review hearing. *Id.* ¶ 69. The immigration judge affirmed the decision of the asylum officer. *Id.* However, on September 27, 2019, USCIS reconsidered Y.D.'s case and determined that she had established a reasonable possibility of persecution. Accordingly, she was issued a Notice to Appear, is no longer subject to an order of expedited removal, and is now subject to removal proceedings under 8 U.S.C. § 1229a. *See* Notice of Correction and Mootness, Ex. A.

All other portions of the statement remain identical to that previously filed.

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Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

SCOTT G. STEWART
Deputy Assistant Attorney General

WILLIAM C. PEACHEY
Director

s/ Erez Reuveni
EREZ REUVENI
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LAUREN C. BINGHAM
PATRICK GLEN
Senior Litigation Counsel

Dated: October 3, 2019

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2019, I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the District of Columbia by using the CM/ECF system. Counsel in the case are registered CM/ECF users and service will be accomplished by the CM/ECF system.

By: /s/ Erez Reuveni
EREZ REUVENI

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

File No. [REDACTED]

In the Matter of:

Respondent: Y [REDACTED] D [REDACTED] currently residing at:

Elizabeth Detention Facility 625 Evans St. Elizabeth, NJ 07201

(Number, street, city and ZIP code)

908-282-5700

(Area code and phone number)

- ☐ You are an arriving alien.
- ☒ You are an alien present in the United States who has not been admitted or paroled. You are an applicant for admission.
- ☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that:

- 1) You are not a citizen or national of the United States.
- 2) You are a native of CUBA and a citizen of CUBA;
- 3) You entered the United States at an unknown location on or about 07/27/2019;
- 4) You did not then possess or present a valid immigrant visa, reentry permit, border crossing identification card, or other valid entry document;
- 5) You were not then admitted or paroled after inspection by an immigration officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

Section 212(a)(6)(A)(i) of the Act, as amended, as an alien present in the United States without being admitted or paroled, or who has arrived in the United States at any time or place other than as designated by the Attorney General.

☒ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

EOIR Immigration Court 625 Evans Street, Room 148A Elizabeth, NJ 07201

(Complete Address of Immigration Court, including Room Number, if any)

on TBD at TBD to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.


(Signature and Title of Issuing Officer)

Date

SEP 26 2019

LYNDHURST, NJ

(City and State)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the Department of Homeland Security immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act (the Act).

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise DHS by calling the ICE Law Enforcement Support Center toll free at (855)448-6903.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office of Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

(Signature of Respondent)

Date: _____

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on 10/02/2019 in the following manner and in compliance with section 239(a)(1) of the Act.

☒ In person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail
☐ Attached is a credible fear worksheet.
☐ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the Spanish language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

(Signature and Title of Officer)